

REMARKS

AND

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Claims 1-21 are pending.

Applicants have amended Claims 1, 2, 5, and 10-20 to improve readability and to correct improper antecedent bases. No new matter is added by the amendment.

Claims 1-21 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1- 45 of U.S. Patent No. 6,911,682 in view of Popovic et al. (Office Action, p. 2). Without admitting to the propriety of the rejection, Applicants are herewith submitting a Terminal Disclaimer. Applicants respectfully submit that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." (*Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991); *see also* MPEP 804.02.II). Applicants respectfully submit that this Terminal Disclaimer overcomes the rejection of Claims 1-21 under the judicially created doctrine of obviousness-type double patenting.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

In addition, Applicants submit that amended claim 17, one of the limitations reciting:

an electromechanically responsive element disposed between the first and second electrically conductive elements, wherein the electromechanically responsive element is movable toward at least one of the first and second electrically conductive elements in response to electrical stimulus applied to at least one of the first and second electrically conductive elements and the electromechanically responsive element

(emphasis added) is allowable over the cited references. Applicants submit that the claim is not limited to "a nanotubes ribbon disposed between first and second electrically conductive

Application No. 10/802900
Amendment dated January 19, 2006
Reply to Office Action of October 19, 2005

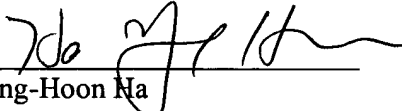
Docket No.: 0112020.167-US1 (NAN-4 CIP)

elements where the ribbon is movable toward one of the electrically conductive elements in response to an electrical stimulus" as asserted in the Office Action (page 3; emphasis added).

No fees are believed to be due; however, please charge any fees which may become due, including any required extensions of time, or credit any overpayments, to our Deposit Account No. 08-0219.

Dated: January 19, 2006

Respectfully submitted,

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